

Regulatory Update – CAFII Executive Operations Committee, January 5, 2016
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Introduction

Federal/National

- **CCIR:**
 - Travel Insurance Working Group To Share Survey Results Via Stakeholder Meetings **(page 2)**
 - Co-operative Market Conduct Supervision Framework Sets Out New Approach **(page 2)**
 - CCIR Determining Next Steps For Annual Statement on Market Conduct **(page 3)**
 - CCIR Committee To Prioritize Electronic Proof Of Automobile Insurance **(page 3)**

Provincial

- **British Columbia:**
 - FICOM Extends Deadline For Insurer Compliance With CGI Information Bulletin **(page 3)**
 - Ministry To Publicly Post FIA Review Stakeholder Submissions **(page 4)**
 - Passing of Agnes Healey, Deputy Executive Director, Insurance Council of BC **(page 5)**
- **Alberta:**
 - CLHIA Advocates On Behalf Of Critical Illness Insurance Being Offered Within CGI **(page 5)**
- **Saskatchewan:**
 - Consultation On Draft Regulations Likely To Occur After April 4/16 Election **(page 5)**
- **Ontario:**
 - Ministry To Make FSCO Mandate Stakeholder Submissions Available Upon Request **(page 5)**
 - FSCO Publishes Regulations And FAQs Related To Insurance Act Amendments **(page 6)**
- **New Brunswick:**
 - New Brunswick Releases Position Paper On Insurance Licensing Framework **(page 6)**

Federal/National

Canadian Council of Insurance Regulators (CCIR)

Travel Insurance Working Group To Share Survey Results Via Stakeholder Meetings

On December 24/15, Harry James, Director, Policy Initiatives with BC's Financial Institutions Commission (FICOM) and Chair of CCIR's Travel Insurance Working Group (TIWG), advised Brendan Wycks that the TIWG will soon be arranging meetings with industry stakeholders to share high level results from its survey of travel health insurers and discuss the next steps in its review of the product. Those meetings will likely occur in February 2016 and may be held via teleconference.

Harry noted that the TIWG has been working throughout the Fall on analyzing insurer data submitted in response to its survey. That work is nearly complete, and the TIWG's preliminary findings will be presented to CCIR in its Winter Conference Call during the week of January 18-22/16. The TIWG wants to have the benefit of feedback from CCIR members on its data analysis, before proceeding to arrange update meetings with stakeholders.

Co-operative Market Conduct Supervision Framework Sets Out New Approach

CCIR members expect that their new *Framework for Cooperative Market Conduct Supervision in Canada* – published in late November 2015, for the industry's information -- will increase information-sharing and collaboration among them; and improve consumer protection and insurance industry regulation by enabling them to make better use of resources, do a better job of uncovering market conduct issues, and be more proactive in responding to issues.

The *Framework* – central to the supervisory college developmental work being carried out by CCIR's Insurance Core Principles Implementation Committee (ICPic) chaired by Laurie Balfour, Director of the Financial Compliance, Insurance Regulation and Market Conduct Branch in Alberta's Ministry of Finance – was developed in concert with a Memorandum of Understanding. It will enable CCIR members to share complaint and investigation statistics in order to identify broader concerns and trends in the market. They also plan to exchange information about new insurance products and major changes to companies' operations (such as new underwriting criteria and changes in distribution methods) in order to determine if they pose a risk to consumers.

Under the *Framework*, CCIR members will develop an annual supervisory plan collectively, which will set out their priorities for addressing market conduct risk. Co-operative reviews will be used to generate "a more informed understanding of the market conduct risks and the conduct of regulated entities." Those reviews will include both company-specific reviews and thematic, market-wide reviews designed to deal with emerging issues. "The areas of focus for thematic reviews may include the sale of certain types of insurance products and particular distribution models and methods," the document indicates.

(In this connection: in a relationship transition meeting with CAFII representatives on November 20/15, Carol Shevlin, outgoing CCIR Policy Manager, advised that a market-wide/thematic review of incidental sales of insurance will likely to be included in CCIR's annual supervisory plan for 2017.)

The *Framework* reflects the evolution of market conduct supervision, the document states. “This evolution has been brought about through increasing expectations by consumers around the protection they receive, and through a heightened awareness of its importance to the stability of the financial system of proactively protecting consumers from unfair or abusive business practices.”

The *Framework* indicates that the Council’s new collaborative approach aims to be “robust and effective” without imposing an undue burden on the industry. It also does not change firms’ regulatory obligations.

“The collaborative approach to planning, market analysis, and entity-specific supervision and thematic reviews will not only improve consumer protection, but align the regulatory model in Canada with international standards and best practices,” said Patrick Dery, CCIR Chair.

CCIR Determining Next Steps For Annual Statement on Market Conduct

CCIR has indicated that its Market Intelligence, Data Gathering & Analytics Working Group will determine the Council’s next steps with respect to its proposed Harmonized Annual Statement on Market Conduct, based on the nature of the comments received in stakeholder submissions. “You can expect details regarding next steps by the end of January 2016,” says a December 23/15 thank you letter from CCIR Chair Patrick Dery.

The letter also indicates that “the CCIR values your insight and we believe that this input will assist us greatly in ensuring the quality and effectiveness of the Annual Statement.”

CCIR Committee To Prioritize Electronic Proof Of Automobile Insurance

On December 21/15, CAFII received a letter from CCIR Chair Patrick Dery advising that the Council had directed its Electronic Commerce Committee to begin work on implementing electronic proof of automobile insurance, as an alternative to the current paper cards.

Provincial

British Columbia

FICOM Extends Deadline For Insurer Compliance With CGI Information Bulletin

On December 24/15, Harry James, Director, Policy Initiatives at BC’s FICOM, called Brendan Wycks to advise that Superintendent of Insurance Carolyn Rogers had decided to extend the deadline for insurer compliance with *Information Bulletin INS-15-002: Creditor’s Group Insurance* by one year, to March 31, 2017.

The Superintendent’s transmittal letter accompanying the Information Bulletin, issued September 14, 2015, states that “FICOM expects insurers, creditors and exempt sellers to be compliant with this bulletin by March 31, 2016. Insurers are expected to have in place by that date effective controls and oversight of their CGI products to ensure that all of the expectations set out in the bulletin are being met.”

Harry positioned the news of the deadline extension as an early Christmas present to the industry – noting that the Superintendent’s decision was made at the request of another industry Association, based on information showing that a number of insurers have a very large volume of CGI contracts to review, such that full compliance by March 31, 2016 would not be possible.

On January 4/16, Harry James sent a confirmation letter to CAFII which indicates that “this office has agreed to extend the deadline for insurers to comply with our bulletin on Creditor’s Group Insurance to March 31, 2017.

“This extension should give insurers sufficient time to complete the review of existing group policies, and their business practices, and make any changes necessary to be in compliance with the expectations set out in the bulletin by that date. Your members should be aware that further extensions are unlikely. We would appreciate receiving periodic updates regarding progress by your members.”

The deadline extension is in response to a petition from the Canadian Life and Health Insurance Association (CLHIA). In a December 4/15 letter to Carolyn Rogers, CLHIA stated that “there are more than 1,100 CGI contracts in BC, all of which will need to be reviewed against the new expectation and some of which may need to be renegotiated. This will be a time-consuming exercise and there is industry-wide concern that it simply won’t be possible to meet the March 31, 2016 deadline. In addition to contract review, insurers will need to review and possibly revise training and monitoring programs as they relate to the ‘creditor’s involvement’ criteria.

“We respectfully request that FICOM extend the period that life and health insurers have to comply with the bulletin, and suggest that a reasonable date would be March 31, 2017.”

The CLHIA letter also makes the case that it is not clear how mortgage brokers will be able to meet FICOM’s new expectation with respect to creditor involvement in effecting CGI contracts, and asserts that “FICOM has never stated that its intention is to disallow mortgage brokers from distributing CGI, but this is likely to be the effect of the bulletin.”

Ministry To Publicly Post FIA Review Stakeholder Submissions

On December 17/15, CAFII received an e-mail notification from the BC Ministry of Finance’s Policy & Legislation Division which advised as follows:

The initial public consultation paper stated that a public report on the input received would be prepared and released after the submissions had been reviewed. Since that time, we have also received requests for copies of the submissions themselves.

As this is a public consultation process, and in the interests of transparency and fairness, we intend to publicly post the FIA/CUIA review submissions on the BC Ministry of Finance website at the time the high level report is released so that all those interested are able to have access to the submissions. If you wish to request that your submission, or a portion of it, NOT be posted, please respond to this email no later than January 15, 2016. However, please note that all submissions received are subject to the Freedom of Information and Protection of Privacy Act and, even where confidentiality is requested, this legislation may require the Ministry to make information available to those requesting such access.

Further public consultation will be undertaken in a later phase of the review. After analysis of the issues and input received during the initial consultation period, and development of proposed policy and legislative changes, the Ministry plans to prepare and release a second consultation paper which identifies the proposed policy and legislative changes and seeks further public input.

Passing of Agnes Healey, Deputy Executive Director, Insurance Council Of BC

The Insurance Council of BC has published an *In Memoriam* tribute on the home page of its web site, sharing the news that on November 2/15, Agnes Healey, Deputy Executive Director of the Council, passed away after a lengthy battle with cancer.

The tribute indicates that Agnes joined the Council in 1993 as its Manager of Licensing and successfully took on additional responsibilities before becoming Deputy Executive Director. She came to Council with a strong insurance background, including 20 years of work experience at two Canadian life insurance companies. She played a major role in all aspects of Council's development and successes over 22 years and deserves much of the credit for the organization that Council is today.

Alberta

CLHIA Advocates On Behalf Of Critical Illness Insurance Being Offered Within CGI

On December 7/15, CLHIA wrote to Joanne Abram, CEO of the Alberta Insurance Council, in connection with the Council's current review of the types of insurance that can be offered under a Restricted Insurance Agent certificate.

The letter notes that critical illness coverage has been included for many years as part of the CGI product offering of many restricted certificate holders, such that "we were surprised to learn there is any question regarding its distribution, given that the current process appears to be working well."

The letter makes the point that the Alberta Insurance Council's 2012 specification states that "credit related insurance" can be distributed under a restricted licence, and section 1(5)(a) of the Insurance Agents and Adjusters Regulation states that credit related insurance means creditor's group insurance. It has always been the industry's view that CGI products, including those with critical illness coverage, fall under this description."

Saskatchewan

Consultation On Draft Regulations Likely To Occur After April 4/16 Election

On January 4/16, Jan Seibel, Legal Counsel with Saskatchewan's Financial Consumer Affairs Authority and lead on the province's Insurance Act rewrite file, advised Brendan Wycks that she did not have any news with respect to the probable timing of the release of draft Regulations, but she believes the consultation period with the industry on the Regulations will occur after the provincial election that is set for April 4/16.

Ontario

Ministry To Make FSCO Mandate Stakeholder Submissions Available Upon Request

On January 4/16, David McLean, Senior Policy Advisor in the Ontario Ministry of Finance and Secretary to the Expert Panel reviewing the mandates of FSCO, DICO and the FST, advised Brendan Wycks that the stakeholder submissions received in response to the Panel's Preliminary Position Paper would be made available upon request within the coming weeks. This is the same approach that the Ministry took in providing access to stakeholder submissions to the initial Consultation Paper, in the summer of 2015.

Earlier, David acknowledged receipt of CAFII's December 11/15 submission on the Panel's Preliminary Position Paper via a December 13/15 thank you email. The Expert Panel will now deliver final recommendations to the Minister of Finance during this winter of 2016.

FSCO Publishes Regulations And FAQs Related To Insurance Act Amendments

On December 31/15, FSCO published a Bulletin on its web site that sets out four Regulations and FAQs related to the amendments to *Part V – Life Insurance* and *Part VII – Accident and Sickness Insurance* of the province's Insurance Act that will come into force on July 1/16.

The amendments constitute substantive changes that affect individual, group, and creditor's group insurance policies. FSCO is informing insurers six months in advance, so that they have sufficient time to revise their insurance contracts and inform their staff and insurance agents about the changes.

The changes are intended to improve flexibility, protection, and provide greater disclosure for consumers. The key changes include requiring the provision of a copy of the policy and application to the insured upon the policy's issuance; implementing a new grace period of 30 days, during which the insured may make overdue premium payments (with some restrictions) in order to reinstate a lapsed policy; changing misrepresentation and incontestability provisions; providing for the continuation of coverage where a group contract is terminated; and broadening the list of particulars that must be disclosed in a group certificate.

Ontario Regulations 278/15 and 279/15 pertain to whether or not the Act amendments affect only new insurance contracts, or if they also apply to existing contracts.

Ontario Regulations 280/15 and 281/15 include restrictions on access to confidential information by individual insured persons who are covered under a group insurance or creditor's group insurance policy. The provisions include restrictions on access to confidential commercial information and information about the plan's design and the benefits that are provided under the group insurance policy.

New Brunswick

New Brunswick Releases Position Paper On Insurance Licensing Framework

On November 25/15, the Insurance Division of New Brunswick's Financial and Consumer Services Commission (FCNB) released a Position Paper on *Modernizing the New Brunswick Insurance Licensing Framework*.

Although the main focus of the Position Paper is the licensing framework for other-than-life agents and brokers, many of the items discussed also impact other insurance intermediaries, including life insurance agents and adjusters. CAFII will therefore make a submission in response to the Position Paper by the January 22/16 deadline.

The Position Paper is a follow-up to a 2013 Discussion Paper on the same subject, to which CAFII also responded.